439 452 tions on a credit basis so hazardous that they have practically ceased, to the great discomfiture of Rumanian merchants, who have seen their activities completely paralysed.

426 452 651 686 As matters stand, a creditor is at the mercy of his debtor, and if the latter refuses to honour his engagements there is nothing to be done but to accept whatever compromise may be offered, for a recourse to tribunals would be tantamount to a total loss not only of the amount involved, but of the supplementary expenses arising from legal disbursements and inordinately high judicial taxes which unlucky creditors will have to defray.

[439] What is singular is a tax imposed by the State on all bankruptcies to the amount of 20 per cent of the total assets declared, so that this explains, though it can hardly justify, the State's manifest indifference to the undermining of the country's commercial reputation through fraudulent bankruptcies, the frequency of which is positively alarming, for it derives corresponding advantages from this impost on bankruptcies. Instead of attempting to circumscribe this evil it would appear that the State has done much to encourage it, especially where foreigners are involved. Apparently it is actuated by the shortsighted view that the loss of the foreigner is to the benefit of the country in general, since through bankruptcies foreign capital is transferred to its own nationals. At any rate, bankruptcies have been regarded as a means of raising revenue, and the State as a privileged party has always secured its 20 per cent impost plus other legal taxes, and the debtor has usually managed to alienate a good part of his assets so as to safeguard himself in a very satisfactory manner, while the wretched creditor not only gets nothing but usually finds he is being called upon to make further disbursements on account of legal formalities involved. The *Argus* of June 15th and 16th, 1931, commenting on the law of the "Concordat préventif," qualified it as disastrous, and added: "Among the principal obstacles which prevent the development and normalization of our commerce this law stands in the front rank. . . . it has given free rein to the unscrupulous debtor, permitting him to carry out his underhand manœuvres without any risks, to sell the goods he bought with-

out paying for them, spoliating thereby his creditor and underselling and ruining the honest trader."

The paper advocated a revision of the law and demanded that debtors should be obliged to make a composition on the basis of the ratio existing between the assets and the liabilities, or with a variation of only 10 or 20 per cent of this proportion. As matters now stand a dishonourable merchant is entitled to file a demand for a "Concordat préventif" though his assets may far exceed his liabilities. He is then allowed to pay 40 or 60 per cent of his debts, and after they have been thereby considerably reduced is even accorded a delay of several years to pay them off. With such facilities at hand the majority of merchants did not scruple to avail themselves of the opportunity of repudiating their engagements and so getting rich quickly. The consequence is that commerce has been completely dislocated through the complete suppression of credit which naturally followed. The Under-Secretary of Justice in the Iorga-Argentoianu Government, M. N. Lenguceanu, overtly admitted in the *Neamul Romanesc*, September 5th, 1930, that the above-mentioned law "had permitted merchants, 98 per cent of whom were foreigners, overtly to despoil their creditors." Another very serious defect from which Rumanian legislation suffers is the tendency to enact laws with retroactive effect, which permits the invalidation of contracts, thus creating a state of instability that affects most adversely all commercial and financial operations. For how can foreign investors risk their capital in a country where uncertainty and instability have become its distinguishing features?

Senator Marino, on February 26th, 1932, deplored the disrespect shown for contracts, criticized the State for various measures passed undermining confidence, among which was the moratorium of 1919–1920 by which foreigners had lost some 7 milliard lei, and demanded the granting of serious guarantees which would instil confidence once more. Similar pronouncements by public men abound, for the serious consequence of the present policy are obvious to all.

Professor Flinders Petrie once stated (*Contemporary Re-*

000 moval of this stigma on Rumania's honour, but also more weighty considerations concerning her very national existence. In the long run no community, however impervious to contamination, can survive with a stinking cesspool in its midst.

426 The late Minister of Justice, M. Hamangiu, in June, 1931, addressed a circular to the judges reprimanding them for their remissness, and calling upon them to supervise more strictly the carrying out of the law in the case of abuses committed by dishonest merchants and manufacturers. His rescript contained the following passage: "The lack of sanctions against defaulters threatens the security of the country's credit. The gravest infractions are committed in bankruptcy cases. So far the magistracy has been too lenient; this becomes obvious from bankruptcy statistics of the last four years, the returns of which amount to thousands of millions of lei, and compositions are concluded on the basis of payment to the extent of 3 per cent to 8 per cent. What is particularly staggering is the excessive indulgence shown in the repression of penal offences in cases of simple or fraudulent bankruptcy. . . ." The Minister concluded by stating that this could no longer be tolerated, and gave instructions for restricting these abuses.

686 The opportuneness of radical reform in judicial methods is more than urgent since an unscrupulous debtor by force
696 of chicanery is allowed to postpone the hearing of his case by the courts for years, during which time he not only has every opportunity of alienating his assets by overtly transferring them to relatives and friends, but what is most revolting, he has often the possibility by dexterous manipulation of subordinate officials, of making away with the most incriminating documents which his unsuspecting adversary has submitted to the Court for its enlightenment.

000 The late M. Hamangiu, whose untimely death all friends of Rumania must deplore, was a bosom friend of Prof. Iorga and as such fully recognized the imperative necessity of maintaining a high standard of justice in the country. In this respect he undoubtedly shared the opinion of one of our distinguished historians, Mr. Ramsay Muir, that "in the Western view no people can be called fully civilized until

there is widely diffused among its members the sense of their obligations, not merely to obey the law but to obey it willingly and to co-operate in enforcing and maintaining it. Because the law embodies the common conscience and also the common interest" (*v.* 'Nationalism and Internationalism.')

What hope there may have been for an improvement in this respect has at least for the present vanished with M. Hamangiu's decease, for his successor was nominated mainly with the object of placating public feeling in Transylvania, which region did not possess a single representative in the Iorga-Argentoianu Cabinet. The selection, however, of M. Valer Pop let loose a storm of indignation in independent Transylvanian circles, so that one may take it for granted that he was not the appropriate person for this high post. As the *Patria*, a newspaper of Cluj, wrote in January, 1932, "The men who have recently entered the Government do not represent even a part of the population, nor even a petty clan; they do not even form a part of the *élite* of their profession. . . ." At any rate, he has so far not manifested any inclination to follow the commendable initiative of his predecessor in office. On the contrary, he is responsible for the so-styled law of "judicial liquidation," which intensifies all the evils contained in the law of the "Concordat préventif" which it supplants. In fact this law prolongs indefinitely the liquidation of all ramshackle enterprises which were bound to go bankrupt, and puts off the reimbursement of creditors for an indefinite period without any guarantee whatever for them. The *Argus* of April 24th, 1932, commenting on this, wrote as follows: "Serious commercial circles consider this law as a new, corrected, and aggravated edition of the "Concordat préventif," a direct invitation addressed to traders in general not to pay. Immediately upon the promulgation of the latter law one witnessed a steeplechase of merchants taking advantage of it in order to escape the rigours of the bankruptcy law. We shall now witness the same mass-rush of those who do not wish to pay and who desire to avail themselves of this new law so that they may escape the opprobrium of bankruptcy and the loss of civil rights. . . ." Naturally these laws, which annul formal engagements, have

gradually imbued people with the conviction that engagements and promises need not be considered seriously, and that on the contrary, elusion of obligations is a mundane affair and a fashionable art which should be cultivated assiduously. As a result, not only debtors always find means to avoid paying, but taxpayers also use every possible stratagem to avoid payment of taxes. There are huge arrears of taxes that remain uncollected, every imaginable trick being resorted to by taxpayers in order to escape from their monetary obligations to the State. The present tremendous falling off in the revenue should mainly be ascribed to this reason, as well as to the venality of the tax-collectors, whose leniency is secured by a slight gratification whenever they tend to become over sedulous in the execution of their duties. M. N. Petrascu, a fashionable speaker, while delivering an address at the Rumanian Social Institute in Bucarest on May 18th, 1932, asserted, "we should explain the non-realization of the budgetary revenue forecasts by the fact that our civic consciousness is not sufficiently developed to allow us to understand that by paying our taxes we fulfil an elementary duty; this is also the reason why fiscal frauds have attained extraordinary and unimaginable proportions. . . ."

The utter disregard of contracts and formal engagements can hardly be better illustrated than by the attitude of the State Railways administration in rescinding contracts with metallurgical establishments at Arad, Braila, and Reşiţa, contracts on the basis of which these very workshops were built. Another flagrant case of repudiation of solemn promises by an official organization is that of the municipality of Cluj which, after confirming a contract with the society "Electrobel" for a duration of fifty years, and after the Brussels firm had carried out 80 per cent of the work it had undertaken to perform, was requested by the municipality, hardly one year after signature of contract, to alter its provisions which had received the royal assent and had been unanimously approved and passed by the municipal council. The municipality brazenly demanded a reduction in the time period of the concession originally granted, namely from 50 years to 15, an increase in the royalty payable to the municipality from 3 per cent to 6 per cent, and